

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

STEPHEN P. WALLACE, individually)
and assignee of the claims and)
attorney-in-fact, and next friend, and all)
those similarly situated, EDITH L.)
JACKSON, individually and by and)
through her assignee of the claims and)
of her attorney-in-fact, and next friend,)
and all those similarly situated, and)
LISA F. WALLACE, a developmentally)
disabled person, by and through her)
next friends, and all those similarly)
situated,)

Plaintiffs,)

v.)

JAMES M. KELLEY, individually and as)
a shareholder of Berry & Kelley, JOAN)
GODLOVE, individually, MICHAEL)
FREEMAN, individually and as the)
shareholder of Freeman Law Group,)
MICHAEL KIRSCHNER, individually)
and as the shareholder of Kirschner)
Law Firm, TRUST COMPANY OF)
OKLAHOMA, its shareholders and)
directors, RONALD J. SAFFA,)
individually and as a shareholder in)
Morrel, West Saffa, Craige & Hicks,)
Inc., WILLIAM HARRISON, individually)
and as a shareholder of J.P. Morgan)
Chase, JAMES DIMON, individually and)
as a shareholder of J.P. Morgan Chase,)
JEFF KING, individually, DAVID R.)
PAYNE, individually and as shareholder)
of D.R. Payne & Associates, PATRICK)
JAGE, individually, WINDY CITY)
PARTNERS, LLC, and JOHN DOES I -)
10, whose identities are not yet known,)

Defendants.)

CASE NO. 4:06CV3214

MEMORANDUM AND ORDER

The matter before the Court is on the Plaintiff Stephen Wallace's Motion to Vacate Magistrate Gossett Text Order of 2/21/07 Under FRCP Rule 60(b)(4) (Filing No. 67). The text order, appearing at Filing No. 65, denied the Plaintiff's motion for an order directing the Clerk of Court to refund the Plaintiff's filing fee and service of summons expense.

Rule 60(b)(4) allows a court to relieve a party from a final judgment because the judgment is void. Relief under Rule 60(b) is an extraordinary remedy, and it lies within the discretion of the trial court. *In re Design Classics, Inc.*, 788 F.2d 1384, 1386 (8th Cir. 1986).

I do not find that the final judgment in this case was void. The Plaintiff's motion will be denied. As I have stated before, Plaintiff's remaining recourse is to file a direct appeal with the Eighth Circuit Court of Appeals.

IT IS ORDERED:

1. The Plaintiff Stephen Wallace's Motion to Vacate Magistrate Gossett Text Order of 2/21/07 Under FRCP Rule 60(b)(4) (Filing No. 67) is denied; and
2. The Clerk of Court is directed to send a copy of this Memorandum and Order to the Plaintiff at his last known address.

DATED this 2nd day of April, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge